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Supreme Court, U.S.
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No. 02-0138

In The

Supreme Court of the United States

LARRY A. CAMPBELL,

Petitioner,

v.

JOHN W. LYON,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fourth Circuit

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the United States Court of Appeals for the Fourth Circuit correctly affirmed the carefully reasoned judgment of the United States District Court for the District of Maryland that, in this essentially garden-variety dispute between former business partners, petitioner Campbell inequitably withheld respondent Lyon's fair share of the proceeds of sale of a parcel of land.

BRIEF IN OPPOSITION FOR RESPONDENT JOHN W. LYON

Respondent John W. Lyon respectfully submits that the petition for writ of certiorari filed by petitioner Larry A. Campbell should be denied. The decisions below correctly adjudicate the merits of the underlying dispute between these former business partners concerning distribution of the proceeds of sale of a parcel of land. The constitutional claim urged by Mr. Campbell as his first "Question Presented for Review" never was urged or ruled upon below. Hence it has not been preserved for review by this Court. Moreover, it is nothing more than an attempt to constitutionalize a procedural ruling by the trial court that was carefully vetted by the Court of Appeals and correctly found to have been appropriate. The remainder of Mr. Campbell's petition for certiorari consists of a request that this Court exercise its supervisory power to overturn the carefully considered decisions of the courts below concerning the merits of this fairly ordinary equitable dispute between former business partners. As is evident from examination of the carefully reasoned opinions of the courts below, which apply Maryland common law and do not present any federal question, no basis exists for exercise of this Court's supervisory power in this case. Finally, this case presents no issue of national importance, there is no split of authority among the circuits or state courts concerning the applicable law, nor is there a conflict with Supreme Court precedent.

STATEMENT OF THE CASE[1]

For purposes of this Brief in Opposition, we respectfully adopt the statements of facts presented in the respective opinions of the United States Court of Appeals for the Fourth Circuit and the United States District Court for the District of Maryland, appended to the Petition for Certiorari. In essence, petitioner Campbell and respondent Lyon owned, through corporate intermediaries, a valuable parcel of land. Mr. Campbell, operating with the assistance of others, took control of these corporate intermediaries. Following the sale of the land parcel, Mr. Campbell essentially appropriated all of the proceeds, denying Mr. Lyon his rightful share.

REASONS FOR DENYING THE WRIT

This equitable dispute between business partners, the merits of which were carefully parsed and adjudicated by the courts below, does not warrant review by this Court. There is no split in authority among the circuits or the state courts of last resort concerning the applicable law, nor is there any conflict with Supreme Court precedent. The case presents no issue of national importance. Rather, the federal courts below correctly applied the common law of the State of Maryland in formulating and upholding the

[1] We do not undertake in this Brief in Opposition to take issue with every assertion in Mr. Campbell's Petition for Certiorari with which we disagree. For the sake of brevity and in an effort to conserve Mr. Lyon's resources, we endeavor only to demonstrate, with as much economy as possible, why the decisions of the courts below are eminently correct and should not be disturbed.

verdict for Mr. Lyon. This is evident from the carefully presented findings of fact and conclusions of law of the District Court, the comprehensive reasons stated by the District Court in denying Mr. Campbell's motion for reconsideration, and the unassailable analysis set forth in the lengthy, unanimous, *per curiam* opinion issued by the Court of Appeals in upholding the District Court's verdict.

In the hope of attracting this Court's interest to this garden-variety commercial dispute, Mr. Campbell urges that the courts below infringed upon his rights under the Fifth Amendment to the United States Constitution by virtue of certain procedural rulings relating to Mr. Lyon's Complaint. The propriety of these procedural rulings was carefully considered by both courts below. *See, e.g.*, Appendix to Petition for Certiorari at 6, 12-14. No basis exists to disturb their conclusions. Moreover, Mr. Campbell's last-ditch effort to dress up this procedural issue as one of constitutional dimension is not cognizable here because he never urged below that the rulings at issue infringed upon his Fifth Amendment rights, a rather significant procedural omission which entirely escapes mention in Mr. Campbell's Petition for Certiorari. Accordingly review of the constitutional issue here is waived. *See generally Adams v. Washington*, 520 U.S. 83 (1997); *Beck v. Washington*, 369 U.S. 541 (1962).

The remainder of Mr. Campbell's petition consists of a request that this Court exercise its supervisory power to reverse the carefully reasoned application of Maryland common law by the District Court and the Court of Appeals. No authority is proffered by Mr. Campbell for this request for invocation of Supreme Court supervisory power. We are aware of none. "The Court's supervisory power over federal courts allows the Court to intervene to

protect the integrity of the federal system." *Frazier v. Heebe*, 482 U.S. 641, 648 (1987). We fail to see how the integrity of the federal court system is at risk in this case. The courts below carefully and faithfully applied Maryland common law to this case. We respectfully submit that no basis exists to disturb their decisions.

CONCLUSION

For these reasons, respondent John W. Lyon respectfully submits that the petition for writ of certiorari should be denied.

Respectfully submitted,

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